

**MINUTES**  
**NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION**  
**REVIEW COMMITTEE**  
**TWENTY-FIRST MEETING**  
**MAY 31, JUNE 1, and 2, 2001, KELSEYVILLE, CALIFORNIA**

**Background**

The Native American Graves Protection and Repatriation Review Committee was established under the Native American Graves Protection and Repatriation Act (25 U.S.C 3001), which was signed into law by President George Bush on November 16, 1990.

Per the review committee's charter –

"The duties of the Committee are solely advisory. Specifically, the Committee will be responsible for:

- "1. Monitoring and reviewing the implementation of the inventory and identification processes and repatriation activities required under sections 5, 6, and 7 of Public Law 101-601 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;
- "2. Reviewing and making findings relating to the identity or cultural affiliation of human remains, funerary objects, sacred objects, and objects of cultural patrimony, or the repatriation of such items, upon the request of any affected party;
- "3. Facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants, and Federal agencies or museums relating to the repatriation of human remains, funerary objects, sacred objects, and objects of cultural patrimony, including convening the parties to the dispute, if deemed desirable;
- "4. Compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for disposition of such remains;
- "5. Consulting with Indian tribes, Native Hawaiian organizations, and museums on matters pertaining to the work of the Committee affecting such tribes or organizations;
- "6. Consulting with the Secretary [of the Interior] in the development of regulations to carry out Public Law 101-601;
- "7. Performing such other related functions as the Secretary [of the Interior] may assign to the Committee;
- "8. Making recommendations, if appropriate, regarding future care of human remains, funerary objects, sacred objects, and objects of cultural patrimony which are to be repatriated; and
- "9. Submitting an annual report to Congress on the progress and any barriers encountered in carrying out the Committee responsibilities during the year."

Review committee members are appointed by the Secretary of the Interior from nominations by Indian tribes, Native Hawaiian organizations, traditional Native American religious leaders, national museum organizations, and scientific organizations.

The review committee reports to the Secretary of the Interior. The Assistant Director, Cultural Resources Stewardship and Partnerships, National Park Service (NPS) currently serves as the Designated Federal Official (DFO), a position that may be delegated to another Federal employee required by section 10 of the Federal Advisory Committee Act, 5 U.S.C. Appendix (1994). Through the

DFO, NPS provides administrative and staff support to the review committee on behalf of the Secretary of the Interior.

Additional information about the review committee – including the review committee's charter, membership, meeting protocol, and dispute procedures – is available at the National NAGPRA program Website, <http://www.cr.nps.gov/nagpra/> (click on "Review Committee").

### **The 21<sup>st</sup> Meeting of the Review Committee**

The 21<sup>st</sup> meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Mr. Armand Minthorn at 8:30 a.m., Thursday, May 31, 2001, at Konocti Harbor Resort & Spa, Kelseyville, CA. The following review committee members and NPS staff participated:

Review committee members:

Mr. Armand Minthorn, Chair  
Mr. Garrick Bailey  
Mr. James Bradley  
Mr. Lawrence Hart  
Ms. Vera Metcalf  
Mr. John O'Shea  
Ms. Rosita Worl

NPS staff:

Mr. John Robbins, Assistant Director, Cultural Resources Stewardship and Partnerships, and DFO, NAGPRA review committee, NPS, Washington, DC  
Ms. Carla Mattix, Solicitor's Office, U.S. Department of the Interior (DOI), Washington, DC  
Ms. Andrea Warren, National NAGPRA consultant, Washington, DC  
Ms. Lesa Hagel, National NAGPRA consultant, Rapid City, SD

The following persons were in attendance during some or all of the meeting:

Ms. Mary Adair, Museum of Anthropology, University of Kansas, Lawrence, KS  
Ms. Marsha Adler, San Francisco State University, San Francisco, CA  
Ms. Ellen Auriti, University of California, Oakland, CA  
Ms. Joanne Barker, San Francisco State University, San Francisco, CA  
Ms. Tina Biorn, California Department of Transportation, Sacramento, CA  
Ms. Victoria Bradshaw, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA  
Mr. Jim Brown, Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, Clear Lake, CA  
Ms. Gloria Bullets-Benson, Paiute Indian Tribe of Utah, Cedar City, UT  
Mr. Jack Burns, Zion National Park, NPS, Springdale, UT  
Ms. Patricia Capone, Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA  
Mr. Jeff Carr, Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA  
Ms. Virgilia Casella, Berkeley, CA  
Ms. Terri Castaneda, Department of Anthropology, California State University, Sacramento, CA

Mr. Gregg Castro, Salinan Nation Cultural Preservation Association, San Jose, CA  
 Ms. Rosemary Caye, Confederated Salish & Kootenai Tribes, Elmo, MT  
 Ms. Claire Charlo, Confederated Salish & Kootenai Tribes, Pablo, MT  
 Ms. Yolanda Chavez, Ukiah, CA  
 Mr. Ronald Chiago, Salt River Pima-Maricopa Indian Community, Scottsdale, AZ  
 Ms. Carmen Christy, Yokayo Tribe, Ukiah, CA  
 Ms. Vicki Christy, Fallon Paiute-Shoshone Tribe, Fallon, NV  
 Ms. Cynthia Clearwater, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA  
 Mr. Brad Coutant, Great Plains Regional Office, Bureau of Reclamation, Billings, MT  
 Mr. Steade Craigo, FAIA, California Department of Parks and Recreation, Sacramento, CA  
 Ms. Barbara Crandell, Native American Alliance of Ohio, Thornville, OH  
 Mr. Lee Davis, Anthropology Department, San Francisco State University, San Francisco, CA  
 Mr. Butch Denny, Santa Rosa Rancheria, Tachi Tribe, Lemoore, CA  
 Mr. Lyndon Desjarlais, Turtle Mountain Band of Chippewa, Belcourt, ND  
 Ms. Linda Dick Bissonnette, California Department of Parks and Recreation, Columbia, CA  
 Mr. Christopher Dore, University of California, Berkeley, CA  
 Mr. Clayton Dumont, Jr., San Francisco State University, San Francisco, CA  
 Mr. Donald Duncan, Guidiville Indian Rancheria, Talmage, CA  
 Ms. Janet Eidsness, Cultural Heritage Resource Management, Felton, CA  
 Ms. Kimberly Elliott, Round Valley Indian Tribes, Covelo, CA  
 Ms. Geri Emberson, California Indian Assistance Program, Sacramento, CA  
 Mr. Brian Ewart, Ann Arbor, MI  
 Ms. Gillian Flynn, National Museum of Natural History, Smithsonian Institution, Washington, DC  
 Ms. Midge Fox, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA  
 Mr. Fred Frampton, U.S. Forest Service, Humboldt-Toiyabe National Forest, Sparks, NV  
 Mr. Hector Franco, Santa Rosa Rancheria, Lemoore, CA  
 Mr. Lalo Franco, Santa Rosa Rancheria, Tachi Tribe, Lemoore, CA  
 Mr. Maurice Frank-Churchill, Yomba Shoshone Tribe, Austin, NV  
 Ms. Larri Fredericks, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA  
 Ms. Reba Fuller, Tuolumne Tribal Council, Tuolumne, CA  
 Ms. Regina George, Anthropological Studies Center, Sonoma State University, Rohnert Park, CA  
 Ms. Myra Giesen, Bureau of Reclamation, Lawrence, KS  
 Ms. Martha Graham, American Museum of Natural History, New York, NY  
 Ms. Pauline Grenbeaux, California Department of Parks and Recreation, Sacramento, CA  
 Ms. Kirstie Haertel, NPS, Seattle, WA  
 Mr. Richard Harjo, Sr., Nevada Indian Commission, Reno, NV  
 Ms. Cleone Hawkinson, Friends of America's Past, Portland, OR  
 Mr. Bill Helmer, Timbisha Shoshone Tribe, Death Valley, CA  
 Ms. Paulette Hennum, California Department of Parks and Recreation, Sacramento, CA  
 Ms. Holly Hensher, Karuk Tribe of California, Orleans, CA  
 Mr. Brent Hicks, Colville Confederated Tribes, Nespelem, WA  
 Mr. Richard Hitchcock, University of California, Berkeley, CA  
 Mr. Robert J. Hoard, Kansas State Historical Society, Topeka, KS

Mr. David Hostler, Hoopa Museum, Hoopa, CA  
 Ms. Kathleen Hull, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA  
 Ms. Andrea Hunter, Repatriation Review Committee, Smithsonian Institution, Northern Arizona University, Flagstaff, AZ  
 Ms. Deborah Hutt, Round Valley Indian Tribes, Covelo, CA  
 Ms. Barbara Isaac, Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA  
 Mr. Michael Jablonowski, Sonoma State University, Rohnert Park, CA  
 Mr. Glenn Jeff, Santa Rosa Rancheria, Lemoore, CA  
 Mr. Joseph Joaquin, Tohono O' Odham Nation, Sells, AZ  
 Ms. Elizabeth Kallenbach, Museum of Anthropology, California State University, Chico, CA  
 Mr. Brian Kemp, University of California, Davis, CA  
 Ms. Karen Kirkendall, Dumna, Fresno, CA  
 Mr. Leigh Kuwanwisiwma, Hopi Tribe, Kykotsmovi, AZ  
 Ms. Rebecca Landes  
 Ms. Allyson Lazar, Seattle, WA  
 Ms. Rhonda Lueck, U.S. Army Corps of Engineers, St. Louis, MO  
 Ms. Mandy Marine, California Department of Transportation, Fresno, CA  
 Mr. Martin Martinez, III, Redwood Valley Reservation, Redwood Valley, CA  
 Ms. Jean McCoard, Native American Alliance of Ohio, Lucasville, OH  
 Ms. Sarelle McCoard, Oakland, CA  
 Mr. Robert McLaughlin, Anthropology Department, University of Chicago, Chicago, IL  
 Ms. Buffy McQuillen, Yurok Tribe, Klamath, CA  
 Mr. Bob Metcalf, University of Alaska-Fairbanks, Nome, AK  
 Ms. Fawn Morris, Yurok Tribe, Crescent City, CA  
 Ms. Patricia Murphy, Dumna/Kechayi Tribe, El Cajon, CA  
 Ms. Karen Nissen, California Department of Transportation, Fresno, CA  
 Ms. Martha Potter Otto, Ohio Historical Society, Columbus, OH  
 Mr. Peter Palmer, Department of Chemistry & Biochemistry, San Francisco State University, San Francisco, CA  
 Ms. Deborah Porter, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA  
 Mr. Robert Price, University of California, Berkeley, CA  
 Ms. Shirley Ramirez, Table Mountain Rancheria, Friant, CA  
 Mr. Jim Red Moon, Dumna, Fresno, CA  
 Mr. William H. Richards, Sr., Smith River Rancheria, Smith River, CA  
 Ms. Dale Ann Sherman, Eureka, CA  
 Mr. Bruce Stiny, California Department of Parks and Recreation, Sacramento, CA  
 Ms. Laura Tom, Paiute Indian Tribe of Utah, Cedar City, UT  
 Mr. Keith Turner, Dumna/Mono Tribe, Auberry, CA  
 Ms. Norma Turner, Dumna/Mono Tribe, Auberry, CA  
 Ms. Cathy Van Arsdale, U.S. Army Corps of Engineers, St. Louis, MO  
 Mr. Robert Wood, California Native American Heritage Commission, Sacramento, CA  
 Mr. Frederick York, Pacific West Region, NPS, Seattle, WA

Mr. Minthorn welcomed the review committee members and members of the audience and stressed the importance of the public's support and assistance of the review committee. Mr. Don Duncan, vice-

chairperson, Guidiville Indian Rancheria, Talmage, CA, gave the opening invocation. The review committee members and NPS staff introduced themselves.

### **Review of the Agenda**

Mr. Minthorn gave a brief review of the agenda.

### **Implementation Update**

Mr. Robbins explained that information on NAGPRA implementation was contained in the review committee members' binders, with copies of some reports available for the public.

Notices of Disposition: Since 1995, 27 Notices of Disposition have been published in newspapers, accounting for 75 sets of human remains, 46 funerary objects, and 5 objects of cultural patrimony. One notice was subsequently rescinded. No notices have been published since the December 2000 committee meeting.

Summaries: Summaries have been received from 1,058 institutions.

Inventories: Inventories and statements of no inventory have been received from 903 institutions. Inventories from 174 institutions have been entered into the database.

Federal Register Notices: As of May 27, 2001, 530 Notices of Inventory Completion have been published accounting for 23,791 sets of human remains and 496,901 associated funerary objects. As of May 27, 2001, 190 Notices of Intent to Repatriate have been published, accounting for 49,673 unassociated funerary objects, 904 sacred objects, 259 objects of cultural patrimony, and 384 objects that are considered to be both sacred objects and objects of cultural patrimony.

Grants: Between FY1994 and FY2001, 333 grants have been awarded; 207 grants to Indian tribes and Native Hawaiian organizations, accounting for \$11,518,105, and 126 grants to museums, accounting for \$6,175,580.

Civil Penalties: Six institutions have been determined to have failed to comply with the requirements of NAGPRA and were granted limited periods of forbearance from civil penalties. Four assertions of failure to comply are under investigation. Three assertions of failure to comply are under review. Three assertions of failure to comply were evaluated and declined. This represents no change since the December 2000 review committee meeting. The status of the forbearance institutions was discussed in detail later during the meeting.

Regulations: Proposed regulations on civil penalties are under review by NPS. Regulations on future applicability, disposition of culturally unidentifiable cultural items, and disposition of unclaimed cultural items remain to be drafted. In response to concerns expressed by the review committee regarding the progress of regulations, Mr. Robbins explained that his staff was currently decreasing due to the resignations of two consultants. He indicated that staff assigned to these topics would be in place no earlier than the end of summer 2001. Ms. Mattix explained that the civil penalty regulations were in effect as interim regulations with the full force and effect of law.

Trafficking: Ten individuals have been successfully prosecuted on trafficking charges. This represents no change since the December 2000 review committee meeting.

## **Status Reports**

Mr. Robbins reviewed a series of reports. Copies were included in the committee binders and were available for the public.

Status of Grants: The grant report included a summary of all grant proposals, a summary of all grant awards, and a list of FY2001 grants, with copies of the two corresponding Certificates of Apportionment. The total FY2001 grants awarded was \$2,386,380. The balance of grant money for FY2001 is \$49,500, which was reserved for repatriation grants. Four repatriation grants for the transfer of cultural items from museums or agencies to Native American groups have been awarded in FY2001 to date. The remainder will be expended in FY2001. In response to a question from Mr. Minthorn, Mr. Robbins explained the grant process. The solicitation for proposals was available at the beginning of the fiscal year, and the proposals were due in December. Following a staff review of the proposals for completeness and clarity, the grant review panel reviewed the proposals. This year the panel included individuals from the National Museum of the American Indian, the DOI Museum program, the Bureau of Indian Affairs (BIA), and NPS Santa Fe office. The panel included three Native American individuals. The grant review panel's list of recommendations was forwarded to the Secretary of the Interior for final decision and signature on the Certificates of Apportionment. The grant awards were made on May 9, 2001.

Mr. Bailey asked if any analysis of tribal grant recipients had been done. Mr. Robbins stated that the grant process for FY2001 was the same as in previous years, and added that no analysis has been done. He explained that the grant program currently did not have a training and outreach component but that an education and development position was one of the positions advertised for the National NAGPRA office. The review committee members discussed developing a priority system for the grant process. Mr. O'Shea suggested giving priority to first-time grantee proposals. Ms. Worl asked that an analysis of the grant program be done when new staff is hired for the National NAGPRA office. Analysis should describe increasing need for grant support and characterize the types of needs. Mr. Minthorn recommended that the review committee focus on the grant process. Mr. Bradley agreed with the need for review of the grant process but stated that the grant process has been successful in aiding the completion of inventories, and collaboration between museums and Indian tribes. Mr. Robbins stated that the grant program and National NAGPRA program would welcome the experience and comments of the review committee to continue to develop the grant program. Mr. Bradley stressed the need for the review committee and the National NAGPRA staff to work together to improve the grant program, as well as other NAGPRA implementation tasks.

Status of Forbearance Museums: The forbearance report included background information, a section on current status, and a section on future work.

Background: In 1995, a number of museums applied for and received three-year extensions to the deadline for submitting inventories under NAGPRA. In November 1998, six of the museums requested further extensions. After meetings with Mr. Donald Barry, Assistant Secretary for Fish and Wildlife and Parks, DOI, the six museums' requests were denied. In May 1999, the Assistant Secretary wrote to the museums stating that DOI would forbear assessing civil penalties if the museums completed their inventories according to schedules detailed in the letters.

Status: All six museums submitted inventories to the National NAGPRA office on schedule. The deadlines were as follows: American Museum of Natural History, 100 percent submission by June 30, 2000; New York State Museum, 100 percent submission by April 30, 2000; Phoebe A. Hearst Museum of Anthropology, 100 percent submission by June 30, 2000; Ohio Historical Society, 100 percent submission by May 31, 2001; Texas Archeological Research Laboratory, 100 percent submission by February 29, 2000; and Peabody Museum of Archeology and Ethnology, 100 percent submission by May 31, 2001. At this point, Ms. Barbara Isaac, Peabody Museum of Archaeology and Ethnology, presented Mr. Robbins with the museum's final submission.

Future Work: Mr. Robbins explained that the six museums' submissions were received by NPS on time, but that no assessment of the forbearance submittals has been completed by NPS. Increased National NAGPRA staff will allow the assessment of all NAGPRA inventories and summaries, without special regard for a museum's prior forbearance status.

Review Committee Discussion: In response to a concern raised by Mr. Minthorn, Ms. Mattix explained that she helped draft the letters from Assistant Secretary Barry to the forbearance museums. The Secretary of the Interior and Assistant Secretary Barry made the decision not to assess civil penalties in an attempt to encourage the completion of inventories and to allow the distribution of information to tribal communities as soon as possible, rather than assessing large fines and further delaying the dissemination of information. Ms. Mattix added that the letters contained a strict schedule for each museum's compliance and a statement that the civil penalty process would begin if the inventories were not completed as scheduled. Mr. O'Shea stated that this strategy worked in terms of getting museums in compliance. Mr. Bradley agreed and thanked the forbearance institutions for their efforts in completing their inventories. He explained his reservations about the forbearance process, including concern that the consultation process would be shortchanged and the inventory process would be further complicated.

Status of Information Management Systems: The information management systems report provided a summary of information management within the National NAGPRA program and public access to information through the National NAGPRA program Website and the Native American Consultation Database (NACD). Between December 2000 and May 2001, the NAGPRA data management system was improved and refined, utilizing a new, user-friendly Access database. The Access database allows systematic entry, retrieval, and tracking of data and provides a comprehensive, accurate record of files and information related to NAGPRA. The database is comprised of linked modules, so that a search on tribal name will yield all grants and notices linked to that Indian tribe as well as associated contact name, reservation, and land claims.

The National NAGPRA program Website provides information to the public on grants, the text of NAGPRA and NAGPRA regulations, implementation guidance, a searchable database of published notices, documents relating to the review committee, and contact information for National NAGPRA program staff. An August 2000 update reflects the current administrative organization and provides direct links between the home page and pages dealing with specific NAGPRA topics. In May 2001, two lists -- inventories submitted by museums and summaries submitted by museums -- were removed from the Website because the lists inaccurately reflected the status of NPS' assessment of inventories.

In response to a question by Mr. Minthorn regarding staffing assignments, Mr. Robbins explained that he is proposing coordination between the public outreach position and the database management

position. Mr. O'Shea asked if database information was going to be available on the Website. Mr. Robbins stated that he was not sure at this point, but felt that a first priority is access to National NAGPRA data, and how this complicated task might be completed is not yet known.

Status of Staffing: The staffing report consisted of an organizational chart of DOI, an organizational chart of NPS cultural resources programs in the Washington offices, an overview of National NAGPRA staffing, the FY2001 workplan, the FY2001 budget for the National NAGPRA program, and the FY2001 budget for the NAGPRA grants program.

The review committee expressed concern that the National NAGPRA program does not have its own program manager. Mr. Robbins explained that in response to concern about NPS' responsibilities for NAGPRA implementation within NPS, NPS was asked to propose three alternatives for administering its NAGPRA responsibilities. The first alternative called for no change in the implementation of NAGPRA by NPS. The second alternative called for reassigning NAGPRA responsibility to the Assistant Director, Cultural Resources Stewardship and Partnerships. The third alternative called for reassigning of NAGPRA responsibility to the Associate Director, Cultural Resources Stewardship and Partnerships. The second alternative was chosen, and Mr. Robbins was hired into the Assistant Director position in October-November 1999.

Mr. Robbins explained that the four types of positions advertised for the National NAGPRA program systematically address the different aspects of the program's work. Notice work would have a lead person on a rotating basis. Databases, regulations, review committee, and public outreach and grants would each have staff devoted to each topic. Mr. Bradley explained some of the history preceding the change in NAGPRA implementation and expressed support for Mr. Robbins' efforts in managing National NAGPRA. Ms. Worl expressed concern about the lack of progress in some areas.

Mr. Robbins then reviewed National NAGPRA staffing. The National NAGPRA program began CY2001 with eight full- and part-time staff members, plus the program manager. All staff members were temporary hires through NPS's cooperative agreement with the National Conference of State Historic Preservation Officers. During January-April 2001, cumulative staff time was distributed as follows: 2.5 persons devoted to notices, 1.5 persons devoted to grants, 1.25 persons devoted to database work, and .75 person devoted to the review committee. Work on regulations and Web postings was contributed by Park NAGPRA staff in the Archeology and Ethnography program. Following two resignations in April 2001, cumulative staff time was distributed as follows: 2 persons devoted to notices, .25 person devoted to grants, .75 person devoted to database work, and .5 person devoted to the review committee. Temporary assistance on grant work is provided by Heritage Preservation Services program. Beginning in June 2001, the National NAGPRA program will assume responsibility for Web postings and one part-time staff member will work full-time for the month of June. Anticipated cumulative staff time for June 2001 will be 2.5 persons on notices, .25 persons on grants, .75 persons on database and Web work, and .5 person for the review committee.

In FY2001 appropriations, National NAGPRA had a \$400,000 base funding increase. In FY2001, National NAGPRA was established as a separate program within the National Center for Cultural Resources. Work on hiring permanent NPS employees to staff the National NAGPRA program began in Fall 2000 with a target hire date of January 31, 2001. After delays due to Federal hiring restrictions in January and February 2001, the new staff positions were advertised in March 2001 and applications for all positions were due by May 9, 2001. A recruiting plan was developed to reach diverse candidates. New staff may be in place in late Summer 2001 at the earliest. The positions must go



through review at the Equal Employment Opportunity (EEO) office at the time that lists of candidates eligible for selection are prepared by the NPS personnel office. The EEO office reviews each list to ensure that lists for the positions include at least two candidates that represent different types of diversity. If these requirements are not met, the positions must be re-advertised. Mr. Robbins added that he does not have access to information about applications that have been received, and that he would give the review committee an update at the Fall 2001 meeting.

Mr. Robbins also commented on the unusual hiring environment for these positions including that 1) the review committee, among others, advocates removing the program from NPS; 2) redundant employees in specialty positions may be difficult to reassign within NPS if National NAGPRA is removed from NPS; and 3) the possibilities for reassigning new employees outside of NPS are unknown.

In response to a question from Mr. Bradley, Mr. Robbins explained that Mr. Martin Sullivan, former review committee member, represented the review committee at the July 25, 2000, NAGPRA oversight hearings, at which Mr. Sullivan recommended that NAGPRA be removed from NPS, and presented the review committee's recommendations developed at the Juneau meeting on April 4, 2000. Mr. Bradley pointed out that the review committee now includes new members, who might not agree with the past recommendation for removal. Mr. Bradley stated that he was not in favor of the recommendation and suggested that the review committee discuss the subject in more detail later in the meeting.

Status of Federal Register Notices: The Federal Register notice report builds upon a report to the review committee in December. Between December 1, 2000, and May 1, 2001, 74 Notices of Inventory Completion and Notices of Intent to Repatriate were logged. Of the 1,010 total notices logged, 702 have been published in the Federal Register, at an average publication rate of 98 notices per year since the 1995 inventory submission deadline. As of May 1, 2001, the backlog of notices to be published was 312 notices, of which 54 were considered priority due to formal repatriation claims. Two of the priority notices are on hold at the request of the museum or agency, 50 are in progress towards Federal Register publication, and 2 are not yet assigned to staff. In June 2000, 41 notices were in progress, meaning receiving staff attention and in process towards Federal Register publication, compared to 170 notices in progress as of May 1, 2001. January through June 2000, an average of eight notices per month was published. July through December 2000, an average of 17 notices per month was published. January through April 2001, an average of 24 notices per month was published. In CY2000, 92 priority notices were published. To date in CY2001, 59 priority notices were published. The National NAGPRA office has contacted every museum and Federal agency that has submitted priority notices but has not completed the notice publication process. Any notice for which there is not a response will be considered "on hold" at the request of the museum or Federal agency.

The second part of the report contained a graph, which provided additional notice information. The graph showed the totals of all notices received, all notices published, unpublished notices, active notices, notices in progress, priority notices, notices published per month, priority notices published per month, and notices received per month.

Mr. Bradley commended the efforts of the National NAGPRA office to address the notice backlog. Ms. Worl asked for clarification of priority notices. Mr. Robbins explained that Notices of Inventory Completion are considered priority when the National NAGPRA office is notified of a formal repatriation claim. Ms. Worl asked specifically about a situation where the Huna Heritage Foundation has made a formal claim to the University of Pennsylvania Museum for Snail House cultural items.

Ms. Warren explained that the university has not submitted a notice. Mr. Robbins stated that due to time concerns the National NAGPRA office is concentrating only on notices that have been received. Ms. Worl and Mr. Robbins agreed to review this matter and report to the review committee at a future meeting.

### **Discussion of Federal Agency Compliance**

The National NAGPRA programs report of Federal agency compliance summarized agency contact information, whether an agency has responded to review committee requests, and collection status, and includes the date that agencies' response to the letter sent by the National NAGPRA office was received. Mr. Robbins stated that he met with officials from several Federal agencies, including NPS, to discuss how to improve the responses of Federal agencies to the review committee's requests for information. Two main issues were raised. First, the usefulness of the responses would be in direct relationship to the nature of the question; more focussed questions would lead to higher quality and more substantive responses. Second, the agencies expressed reluctance to appear before the review committee without some guidance regarding questions that might be asked. Mr. O'Shea pointed out the large number of agencies that reported no collections subject to NAGPRA. Mr. Robbins explained that this information is useful to determine the total universe of NAGPRA and to eliminate the need to contact those agencies with no collections subject to NAGPRA.

The review committee discussed various ways to improve Federal agency NAGPRA compliance and reporting. Mr. Minthorn expressed concern about BIA's prediction of NAGPRA full compliance in 2007 and reports from other agencies that predicted compliance later than that. Mr. Bradley expressed appreciation for the National NAGPRA program's summary report on Federal agencies and expressed concern that some agencies had provided no information to the review committee. Mr. Bradley suggested targeting specific agencies and asking for information on important issues, and specifically mentioned the U.S. Forest Service, U.S. Department of Energy, U.S. Coast Guard, and Tennessee Valley Authority. Mr. Minthorn added Cleveland National Forest and Sierra National Forest. Ms. Metcalf stated that the U.S. Air Force summary would be a good model in terms of format and type of information provided. Mr. O'Shea suggested having a future review committee meeting in Washington, DC, to improve the response by Federal agencies. The request for information could include some open-ended questions to help identify problem areas in compliance and repatriation efforts. Mr. Hart asked about a suggestion that he made at the Nashville meeting to highlight noncompliant agencies in an issue of the CRM magazine. Mr. Robbins explained that evaluating all Federal agencies regarding their NAGPRA compliance was difficult, but stated that he would consider the topic of Federal agency NAGPRA compliance for a future issue of CRM.

## **Discussion of Request Regarding the Disposition of Culturally Unidentifiable Human Remains – U.S. Department of the Interior, National Park Service, Zion National Park**

Mr. Jack Burns, Assistant Chief, Division of Resource Management and Research, Zion National Park, thanked the review committee for the opportunity to speak. Zion National Park is located in southwestern Utah. Over the past 10 years, Mr. Burns has worked with 7 Indian tribes interested in final disposition of Native American human remains currently stored at Zion National Park. Mr. Burns explained that Zion National Park and the 7 Indian tribes were requesting the review committee's support for the park's determination that 10 sets of human remains are culturally unidentifiable and for the park's proposal to repatriate the Native American human remains to the group of 7 Indian tribes. These Indian tribes have demonstrated their cultural relationship to lands within and surrounding Zion National Park.

Mr. Burns gave a brief overview of Indian cultural history in and around Zion National Park. A number of Indian sites in the park date from the Archaic through the Formative or Puebloan periods to the Protohistoric period. The archeological record demonstrates Native American occupation of Zion National Park and the surrounding lands for approximately 8,000 years. Ancestral Puebloans, also known as Virgin Anasazi, and Numic speaking people, known today as Southern Paiute, occupied Zion National Park. Archeological evidence is present to a lesser degree for a third culture, the Parowan Fremont. The archeological record also provides evidence of long-distance trading that occurred in all directions. Archeologists believe that Numic speaking people moved into southern Utah from the Great Basin region around 1100 A.D. This occupation overlaps with the Ancestral Puebloan period of B.C. 500 to 1300 A.D., a coexistence of 200 years. The ethnohistorical records support the cultural relationships of the seven Indian tribes with Zion National Park through oral and written histories and federally recognized land settlements.

Of the 10 sets of human remains under consideration, 3 were donated with no information regarding provenience or archeological context. A fourth set of human remains was removed from a rock shelter on park land in 1964. The remaining six sets of human remains were recovered from four prehistoric archeological sites, two sites located on park land and two sites located on private land adjacent to the park. Three sets of the remains from park land were recovered during legally authorized excavations conducted in the 1930s and in 1996. One set of human remains was recovered from an archeological site on private land during a legally authorized excavation conducted in 1933. Two sets of human remains were removed from a site on private land and donated to Zion National Park's museum collection in 1962. No funerary objects, as defined under NAGPRA, were associated with any of the 10 sets of human remains. All of the human remains have been examined and recorded by professionally qualified physical anthropologists, who have determined the age and gender of each individual when possible, based on the physical characteristics and condition of the skeletal material.

In 1991, park staff began consulting with Indian tribes regarding repatriation, with the assistance of the Utah Indian Affairs Office. Between 1992 and 1995, park staff conducted an item-by-item inventory of the human remains in the collection. During this process, three sets of human remains were discovered missing that were eventually located at the Museum of Northern Arizona, Flagstaff, AZ, and returned to the park. One set of human remains, recovered during an excavation in the park in the 1930s, is still missing and efforts continue to locate the remains. In 1994, the park contracted with the University of Arizona for an ethnographic study of the Southern Paiute, which provided a better understanding of Paiute perspectives and interests in Zion National Park. In 1995, the park initiated formal consultation with 29 Indian tribes who were thought to have potential affiliation or an association with the park. A

Notice of Inventory Completion was mailed to 29 tribes in 1996 and, based on correspondence and telephone conversations, 13 tribes expressed some level of interest in participating in the park's NAGPRA process. Meetings were held in 1996, July 2000, and November 2000 with interested tribes. Eventually seven tribes showed interest and are currently involved in the proposed repatriation.

At the November 2000 meeting, tribal representatives articulated guiding principles for disposition. The 10 sets of Native American human remains need to be returned as closely as possible to their original burial locations. A core tribal committee was formed to work with the park. The core tribal committee would seek disposition for the human remains through a joint claim as Indian tribes with cultural relationships to the land based on oral traditions, historical relationships, and other evidence. While determination of specific cultural affiliation of the human remains is not possible, NPS recognizes that some evidence, including tribal perspectives on their relationships with the human remains, archeological and historical interpretations of tribal relationships to the lands, and U.S. Indian Land Claims Commission decisions indicate that the tribes are a reasonable group to which these remains might be returned. The preponderance of the evidence does not confirm affiliation to any one present-day tribe, band, or clan. A plan for reburial of the human remains will be developed. All participating tribes must agree to the principles of the final disposition plan in order for the agreement to become effective. Tribes may elect not to participate but understand that the disposition process will continue without them. The park has determined that there is no scientific justification for retaining these Native American human remains for further research. Mr. Burns stated that Zion National Park feels that the park has met the requirements of NAGPRA.

Ms. Laura Tom, tribal chair, Paiute Indian Tribe of Utah, explained that Zion National Park is considered Southern Paiute country. The Southern Paiute are in concurrence with Zion National Park's report and determination. The lack of archeological information leaves doubt as to whether the remains belong to Southern Paiute, Ute, Hopi, Zuni, or any other tribe. Tribal elders have directed that it is the tribes' responsibility to take care of these human remains that the remains need to be returned to their original locations.

Mr. Leigh Kuwanwisiwma, director, Hopi Cultural Preservation Program, explained that the Indian tribes have worked very hard to reach a consensus on the final disposition of these human remains. The Indian tribes have diligently consulted with Zion National Park and agree that the information available on the 10 sets of human remains warrants classification as culturally unidentifiable. Mr. Kuwanwisiwma expressed appreciation for the review committee's principles and process regarding the disposition of culturally unidentifiable remains. The Hopi Tribe highly recommends that the review committee concur with Zion National Park's determination and allow the park to expeditiously repatriate these human remains.

Mr. Kuwanwisiwma explained that the Hopi Tribe disagrees with NPS' position that scientific information is in the public domain and available for further scientific inquiry and use, and added that this point was never discussed or agreed during the consultation process. Further scientific inquiry could set a precedent, which could impede the return of these human remains. Mr. Kuwanwisiwma commended Zion National Park and the other tribal members for their diligent work on this matter.

Ms. Gloria Bullets-Benson, director of the language program, Paiute Indian Tribe of Utah, explained that she participated in the consultation process. As tribal chair of the Kaibab Paiute Band during part of the consultation process, she was aware of the canyon in Zion National Park and its spiritual

meaning to the Southern Paiute people. She agreed that Zion National Park has made a determination that should be supported.

Review Committee Discussion: Mr. Bradley expressed appreciation for the presentation and excellent model for the disposition of culturally unidentifiable human remains. Mr. O'Shea stressed the importance of the determination that these 10 sets of human remains were culturally unidentifiable and the consultation that followed to develop a disposition proposal. Mr. O'Shea appreciated that Zion National Park considered the possible future scientific value of these human remains. In response to a question by Mr. O'Shea, Mr. Burns explained that following a legally authorized excavation in the park in the 1930s, some of the human remains were sent to the repository at Northern Arizona University. Mr. Kuwanwisiwma clarified that his earlier statement regarding disagreement with public access to scientific information was a procedural concern.

Mr. Bailey expressed his opinion that the cultural affiliation of the human remains could have been identified more closely. Mr. Kuwanwisiwma replied that in his opinion there was insufficient evidence to make a cultural affiliation with one group and expressed satisfaction with the decision by Zion National Park that the human remains are culturally unidentifiable. Mr. Kuwanwisiwma was satisfied that Zion National Park upheld its NAGPRA responsibilities. In response to a question by Mr. Bailey, Mr. Burns explained that the Navajo Tribe was part of the initial consultation efforts but later chose not to participate in the process. Ms. Metcalf asked about the potential for competing claims. Mr. Burns stated that competing claims were a possibility, although every effort has been made to include as many Indian tribes as possible. Mr. Kuwanwisiwma explained since the Indian tribes were willing to work together, this repatriation should proceed. In response to concerns raised by Mr. Minthorn, Mr. Burns explained that the decision to move ahead with the disposition of these human remains without the participation of all potentially affiliated tribes was made by the tribal representatives. Other tribes were given the opportunity and some chose not to participate. The search for the missing human remains will continue and the tribal representatives will decide whether the disposition will proceed without the missing remains.

Mr. Minthorn pointed out that the proposed burial location for these human remains was on Federal land and expressed his appreciation for Zion National Park's willingness to consider re-burial within the park, and for the possible precedent set by this repatriation. Mr. Hart expressed appreciation for the excellent model, and for the efforts of all participants. He added his opinion that there is no scientific justification to retain Native American human remains. Ms. Worl complimented Zion National Park for the exemplary process and consultation efforts, and complimented the tribes for forming the core tribal committee to work with Zion National Park. At the request of Ms. Worl, Mr. Burns described the proposed reburial location. Parunuweap Canyon was closed to the public in 1992 and is being considered for a research area for sensitive species. The canyon is approximately 15 miles long and has the highest concentration of archeological sites in the park. During the site selection process, consideration will be given to security concerns and ease of accessibility for tribal elders.

Mr. Robbins explained that letters from the review committee regarding culturally unidentifiable human remains requests have cited three points: the recommendation of the review committee, a requirement for publishing a Notice of Inventory Completion, and a statement that documentation compiled as part of the inventory process shall be considered public information. Mr. Robbins clarified a procedural question by Mr. O'Shea regarding the Secretary's approval of recommendations of the review committee and explained that starting in 1995 the approval process for recommendations of the review committee was delegated to NPS. The review committee unanimously concurred with Zion

National Park's and the 7 Indian tribes' proposal for disposition of the 10 sets of culturally unidentifiable human remains. Mr. Robbins agreed to prepare correspondence that states the review committee's concurrence with the proposed disposition.

### **Discussion of Status of Disputes**

The National NAGPRA program's report on the status of disputes summarized each dispute heard or submitted for consideration by the review committee in three categories: 1) disputes for which there has been a finding, 2) disputes that are being considered by the review committee, and 3) disputes that have been received by the National NAGPRA program but not yet discussed by the Chair and DFO. Three disputes had findings after consideration by the review committee. Three disputes are in the "considered" category. Two disputes were heard by the review committee which issued comments but not a finding. One dispute was scheduled for the Kelseyville meeting but was postponed. Nine disputes have been received by the National NAGPRA office but have not been discussed between the Chair and DFO. Mr. Robbins added that the review committee might want to discuss what information would be helpful in considering or scheduling the disputes.

Mr. O'Shea asked for clarification of the status of the dispute between the Hopi Tribe and Mesa Verde National Park, which is listed as pending the National Park System Advisory Board's current review. Mr. Robbins explained that the park is currently taking no action until the review is completed. He added that he cannot provide a blanket statement of which repatriations would be affected by this review, but repatriations would be considered on hold on a case-by-case basis. In response to a question by Mr. Bradley, Mr. Robbins stated that while the initial time frame for the review has passed, it is possible the review would be completed sometime within the next two meetings of the advisory board. Mr. Bradley pointed out the importance of this review to clarify the status of present and future disputes. Mr. Robbins added that all information requested for the review from the National and Park NAGPRA programs and the parks has been provided.

The review committee members expressed concern over the large number of pending disputes. At the current rate of two disputes per year, the pending disputes could take over five years to consider, not including new disputes that might be brought to the review committee during that time. Various solutions were discussed, including extending meetings by one day in order to accommodate two disputes per meeting and appointing a subcommittee to help the Chair and DFO determine the priority of pending disputes. Mr. Minthorn asked Drs. Bradley, Worl, and Bailey to serve on the dispute subcommittee.

Regarding dispute PEN010, American Indian Intertribal Association and University of Toledo, Mr. Bailey asked whether the association had standing before the committee as an intertribal association and not a federally recognized group. Mr. Robbins explained that Ms. Mattix had prepared an opinion that there is no definitive, legal requirement regarding who constitutes an affected party for proposing a dispute, and that the review committee may determine whether a person, tribe, institution, or some other group is an affected party regarding disputes. Mr. Bailey suggested informing parties if the review committee determines that a party with no standing has brought a dispute. Mr. Hart raised similar concerns about PEN013, Sand Creek Massacre Descendant's Trust and Cheyenne Tribal Governments. He explained that the trust does not have legal standing to make this claim and added that if this dispute did come before the review committee he would recuse himself from the discussion. Mr. Robbins added that the letter from the trust purports that an attachment, which was missing from the submission and was subsequently requested, includes information of why the trust is an affected party. Ms. Worl

suggested that the review committee discuss the affected party issue in more detail and adopt formal language regarding how parties are determined to have standing in the dispute process.

For dispute PEN006, Fallon Paiute-Shoshone Tribe and Bureau of Land Management (BLM), Mr. Robbins explained that this dispute was accepted for consideration and was scheduled for the Kelseyville meeting, but was postponed both at the request of the Fallon Paiute-Shoshone Tribe and due to some questions regarding BLM's participation in the dispute discussions before the review committee. Mr. Robbins explained that the National NAGPRA program received a letter from BLM indicating that the letter and previously submitted reports would serve as their statement to the review committee. After discussion, review committee members decided to consider the dispute at the next meeting, relying on written submissions if BLM chooses not to participate. Mr. Robbins suggested that the decision to hold the dispute at the November meeting should be confirmed with the Fallon Paiute-Shoshone Tribe. Mr. Minthorn asked Ms. Worl to chair any discussions regarding this dispute at the November meeting.

Two disputes are on hold pending responses to requests from the National NAGPRA office for additional information or clarification: Pechanga Band of Luiseno Mission Indians and U.S. Army Corps of Engineers (PEN007), and Sand Creek Massacre Descendant's Trust and Cheyenne Tribal Governments (PEN013). Mr. Robbins suggested that the review committee adopt language to formalize the process to put disputes on inactive status either at the request of the parties or through lack of action on behalf of the parties. This was discussed later in the meeting.

At least five disputes need to be discussed by the Chair and DFO for consideration by the review committee: Ho-Chunk Nation and Field Museum (PEN009), American Indian Intertribal Association and University of Toledo (PEN010), Narragansett Indian Tribe and Peabody Museum of Archaeology and Ethnology (PEN011), Piro-Manso-Tiwa and Salinas Pueblo Missions National Monument (PEN012), and Western Apache NAGPRA Working Group and Denver Art Museum (PEN015). Mr. O'Shea suggested prioritizing these disputes in order to more expeditiously schedule the disputes.

Two disputes are on hold pending the ongoing review by a subcommittee of the National Park System Advisory Board: Hopi Tribe and Mesa Verde National Park (PEN008), and Hopi Tribe and Aztec Ruins National Monument (PEN014).

### **Discussion of Reburial on Federal Lands**

Mr. Robbins explained that in response to a request from the review committee at the Nashville meeting, the committee members were provided a copy of a draft version of a report commissioned by the NPS Southeast Regional Office on behalf of Natchez Trace Parkway. Mr. Minthorn asked for a list of all Federal agencies that permit reburial on their lands and cited Zion National Park as a good model for reburial and subsequent protection of burials on Federal lands. Mr. Minthorn expressed concern about BLM's policy prohibiting reburial on their lands. Ms. Worl asked Mr. Robbins for a verbal summary of the Federal agencies cited in the report.

Ms. Mattix explained that NAGPRA does not deal specifically with what happens after a disposition or repatriation. DOI does not have a departmentwide policy dealing with the issue of reburial on Federal lands. The various statutes and regulations of each agency govern this matter. NPS has a policy that permits reburial if cultural items were originally removed from land within park boundaries, and reburials on NPS land have occurred. BLM has written policy guidance based on their management

issues. One reason BLM prohibits reburial on BLM land is due to security concerns regarding their large land base. Other land-managing agencies within DOI are BIA, Bureau of Reclamation (BOR), and U.S. Fish and Wildlife Service. These agencies do not have explicit policies on reburial and all have made case-by-case decisions that allowed reburials. Mr. Bradley asked for a copy of BLM's written policy guidance on the issue of reburial on BLM lands.

Ms. Worl pointed out that the review committee has the responsibility to make recommendations regarding reburial and the future care of human remains. She suggested using NPS policy as a model that could be recommended for governmentwide use and included in the committee's report to Congress. Mr. O'Shea agreed with Ms. Worl's suggestion. He added that the review committee might also want to address concerns such as future security and protection of remains and having a central location or other solution for cases where human remains cannot be reburied where they were found due to construction or other activities. Mr. Minthorn stated that any policies developed should allow for solutions to these concerns on a case-by-case basis in conjunction with each agency's Indian policy. Ms. Metcalf asked if NAGPRA grant funds would be available for site security. Ms. Mattix explained that grant funds could be used for one-time expenses, such as burial containers, but not for recurring costs.

After discussion, the committee members agreed to the following: "The review committee recommends that the Department of Interior develop and pursue a uniform policy and procedures that permit the reburial of repatriated human remains and/or other NAGPRA-related materials at secure, protected burial sites on all Federal lands from which they were removed. The committee further recommends that the most appropriate solutions to reburial on Federal lands will emerge from consultations between agencies and tribes, and that the Secretary of Interior share these policies and procedures with other non-DOI land-management agencies." The committee intends to include this recommendation in their report to Congress.

### **1999/2000 and 2001 Reports to Congress**

The review committee agreed to combine the reports for 1999, 2000, and 2001 into one report to Congress. In addition, the organization of the report was changed to emphasize the recommendations of the review committee, followed by the historical background and committee activities. The following outline reflects the changes made in the organization of the report, as well as committee member assignments for drafting the report. The members agreed to submit their portions of the report to Mr. O'Shea by the end of June 2001. Mr. O'Shea will assemble the report in draft form and distribute it to the review committee members for comment. The final version will be ready for submission to the National NAGPRA program by September 2001 for producing of the final report.



## Outline for the 1999/2000/2001 Report to Congress

1. Specific Recommendations
  - a. Committee Recommendations for Disposition of Culturally Unidentifiable Human Remains (Mr. Bradley)
  - b. Reburial on Federal lands (Ms. Metcalf)
2. Introduction
  - a. Background
  - b. Statutory duties of the review committee (Ms. Worl)
3. Committee Activities (National NAGPRA staff)
  - a. Narrative of activities
  - b. Statistics for 1999 and 2000
4. Committee Duties (Ms. Worl)
  - a. Committee decisions and recommendations
5. Specific Observations
  - a. Staffing and funding (Mr. O'Shea)
  - b. Statute compliance (Mr. Minthorn)
    - (1) Compliance by Federal agencies
    - (2) Compliance by nonfederal museums and universities
      - (a) Institutions under forbearance
  - c. Contamination of collections (Mr. Bailey)
  - d. Protection of graves on nonfederal lands (Mr. Bradley/Mr. Hart)
  - e. Status of the Hopi/Chaco Culture NHP dispute (Mr. O'Shea)
6. Conclusions (Mr. Bradley)

## NAGPRA Implementation in the Western United States

### California State Parks

Ms. Pauline Grenbeaux, chairperson, repatriation committee, California Department of Parks and Recreation (CDPR), explained that CDPR has been very active in NAGPRA since early in the process, having had the fourth and sixth repatriations under NAGPRA. Despite difficulties in the early years, CDPR has successfully consulted with Native Americans, made cultural affiliation determinations, and worked to implement NAGPRA with the cooperation of California's Native American Heritage Commission. After hearing concerns about the contamination issue from people in California, CDPR has begun pesticide testing at museums, which will be discussed by Ms. Paulette Hennum later in the meeting. Ms. Grenbeaux emphasized that consultation was a very important factor in the success of CDPR's NAGPRA implementation efforts.

In response to a question by Ms. Worl, Ms. Grenbeaux explained that while CDPR does not have a formal reburial policy, CDPR works through the Native American Heritage Commission for cultural items found after the passage of the California State law in 1984. For cultural items found before 1984, CDPR feels that it is their obligation to find a place for reburial in a State park. Mr. Minthorn requested more information on the Native American Heritage Commission. Ms. Grenbeaux introduced Mr. Rob Wood, a commission staff member.

Mr. Rob Wood, Native American Heritage Commission, explained that he was one of two staff members for the commission and that his territory was southern California. Mr. Wood introduced Ms.

Fawn Morris, a member of the committee and the Yurok Tribe. The 1984 California State law makes no distinction between federally recognized and unrecognized tribes. The commission has a most likely descendant list, which contains information on federally recognized and unrecognized tribes, as well as lineal descendants. To be on the list, individuals must submit paperwork tracing their ancestry to village sites or cultural areas. When human remains are found and determined to be Native American, the commission is called. The commission notifies the appropriate individual using the most likely descendant list. Whether the human remains were found on State or private land, the most likely descendant works with the landowner to dispose of the human remains with dignity. In cases where the location of the burial is in a disputed territory, all of the most likely descendants and the landowner must reach an agreement.

In response to a question from Mr. O'Shea, Mr. Wood explained that the commission compiles all information relevant to each case in a confidential database. Ms. Grenbeaux stated that the most likely descendant could negotiate additional study of human remains, which is limited to nondestructive scientific testing. Mr. Bradley expressed appreciation for CDPR 's creative consultation process and model.

## **Discussion of Contamination of Cultural Items**

### **Symposium on Contamination of Cultural Items**

Mr. John Robbins, NPS, described a conference in West Virginia in April 2001 on the contamination of cultural items. The review committee was provided a copy of the preliminary conference proceedings. The final conference proceedings are scheduled to be published in December 2001. The conference was funded through a grant administered by NPS through the National Center for Preservation Technology and Training, and the conference organizer was the Society for the Preservation of Natural History Collections. Mr. Robbins read the stated purpose of the conference: "The goal of this symposium was to bring together Native Americans, museum and preservation professionals, scientists, public health officials, and attorneys actively working on the problems of pesticide residues. This group was brought together to identify and develop paths toward resolution of the numerous difficult issues surrounding the use and repatriation of contaminated collections."

The objectives of the symposium --

- Identify current scholarship regarding collections survey, development of testing methods, risk assessment, and treatment of contaminated collections
- Determine additional research and training needs
- Help to develop appropriate conservation strategies
- Encourage communication among the various stakeholders and to disseminate information through print and Internet publications.

Section 10.10 of NAGPRA regulations states that the museum or Federal agency official must inform the recipients of repatriations of any presently known treatment of cultural items with pesticides, preservatives or other substances that present a potential hazard to the objects or persons handling the objects. Mr. Robbins explained that the symposium refined the participants' understanding of the word "hazard," which at the conference was viewed as an industrial hygiene term intended to call the attention of recipients of cultural items to hazardous materials. Risk is a personal reaction to a hazard and can vary from individual to individual. The conference focussed on the nature and types of

contamination, the nature and types of hazard, the types of risk, and the potential for mitigating contamination.

Review Committee Discussion: In response to questions from Mr. Minthorn about future symposiums, Mr. Robbins explained that this group is now concentrating on publishing the final conference proceedings and will subsequently determine their course of action. Possible areas for research include removing pesticides, chemical treatment of pesticides to reduce pesticide hazard or risk, and developing barriers for pesticide-treated materials where adequate chemical mitigation is not possible. Mr. Minthorn stressed the importance of developing a process to resolve the issue of contamination of cultural items. Ms. Worl suggested that determining strategies to implement mitigation measures and obtaining funding for mitigation falls within the review committee's responsibilities. Ms. Mattix explained that NAGPRA regulations do not go beyond informing recipients of presently known hazards. DOI has not had any further interpretation about who would be responsible for mitigation, which potentially might fall outside of NAGPRA and into other areas of law regarding the transfer of property held by Federal or private entities. Ms. Worl stated that in her opinion the review committee should address this issue but wanted to make sure the review committee could legally proceed with this matter.

Mr. Bradley urged a realistic approach, recognizing the problem of contamination and the possible limitations for mitigation. Mr. O'Shea agreed with Ms. Worl that the issue of contamination was within the review committee's purview, although he did not feel the committee has the expertise to develop mitigation strategies. The review committee could provide an oversight service, encouraging the process and reporting on progress. Mr. Minthorn stressed the value of education, especially by the National NAGPRA program. Mr. Hart commended the actions of the organizers and participants of the conference, and urged the review committee to have oversight of this issue. Mr. Robbins added that NPS volunteered to support the paper publication of the conference, proceedings and provide Website space and support. Mr. Minthorn asked Ms. Worl to head a subcommittee on the contamination of cultural items, focussing specifically on what steps the review committee can take to assist with this issue.

### **San Francisco State University/Hoopa Tribe**

Ms. Lee Davis, director of the California Studies Program, San Francisco State University and director of the Pacific West Center for Regional Humanities, explained that she has worked in museums and with California Indian tribes for 25 years. She described a conference in San Francisco organized by the Environmental Protection Agency tribal committee. NPS has awarded a grant to CDPR to fund a conference and develop educational materials for Indian tribes and museums on the contamination issue and handling techniques. The conference was held at San Francisco State University in November 2000 on the subject of contamination of museum collections and implications for NAGPRA, and included one full day for the development of recommendations. The recommendations and conference summary are available on the San Francisco State University Website and the conference papers will be published in the Collection Forum in approximately three weeks.

NAGPRA requires that museums and Federal agencies report any presently known contaminants on cultural items. Recipients of cultural items have to assume the worst because complete histories are not known for all items. Conference recommendations address the following topics: health, testing, removal, education, and collaboration. Conference participants focussed on education since not all contaminated cultural items will be treated successfully and education is necessary to help protect those

who come into contact with contaminated cultural items. In addition to the hazards for museum personnel, contaminated artifacts are often returned to tribal communities where the artifacts are handled and therefore may pose different and often greater health risks for tribal people.

Ms. Davis discussed specific recommendations developed at the conference. The importance of safety guidelines for handling potentially contaminated items was stressed. Two conservators, Ms. Monona Rossol and Ms. Jane Sirois, developed safety guidelines at the conference which have been given to museums and Indian tribes. Copies of the safety guidelines were provided to the review committee members. San Francisco State University has tested rooms and artifacts. Testing is difficult because there are no industry standards for testing museum environments for contamination. The Occupational Safety and Health Administration (OSHA) does the testing, and the National Institute for Occupational Safety and Health (NIOSH) develops procedures and standards for testing in specific environments. Ms. Davis suggested that the review committee encourage NIOSH to develop procedures and standards for testing museum environments, which OSHA could implement. Ms. Rossol and Ms. Sirois recommended that newly hired staff should have baseline medical examinations with regular medical monitoring during employment and that museums should undertake epidemiological studies of past and present museum workers. Basic medical research should be conducted to determine the short- and long-term effects that different pesticides could pose for human health. Conference participants recommended testing museum environments and all items that are to be returned to tribes for possible contamination. Although current science does not allow for removing all contamination on artifacts, research should be conducted to develop methods that reduce or remove pesticides from objects and museum environments. Education of Native Americans and museum personnel who handle potentially contaminated cultural items is extremely important. Ms. Davis expressed enthusiasm about the review committee's oversight and coordination efforts regarding this topic and appreciation for the subcommittee headed by Ms. Worl.

Mr. David Hostler, Hoopa Valley Reservation, explained that over the past 2 years he has received 17 out of 52 items requested from the Peabody Museum of Archaeology and Ethnology, Harvard University. He recently viewed over 500 Hoopa items at the Field Museum but has not yet made any request. He expressed concern about receiving any cultural items because the Field Museum has only returned 2 items in the last 10 years. Mr. Hostler expressed concern about repatriating contaminated cultural items due to the spiritual nature of the items and their use in dance ceremonies. He explained the tragic circumstances leading to the loss of cultural items and the tribe's struggles to repatriate and safely use cultural items in traditional ceremonies. Mr. Hostler described recent discussions with Ms. Barbara Isaac of the Peabody Museum of Archaeology and Ethnology, which were unsuccessful due to the museum's claim that the tribe does not have legal title to the cultural items.

Mr. Peter Palmer, professor of environmental and analytical chemistry at San Francisco State University, thanked the review committee for the opportunity to speak at the meeting. He explained the chemical analyses of cultural items recently repatriated to Mr. Hostler of the Hoopa Tribe. He added that spot testing was used in the analysis of the items, although that may not be the best method for determining the presence and levels of contamination. Multiple, minimal samples were taken from each of the 17 items that were repatriated to the Hoopa Tribe, with the permission of Mr. Hostler. Each item was subjected to two types of analysis, atomic absorption spectrometry to detect various metals and gas chromatography/mass spectrometry to detect a wide range of organic-based pesticides. One-quarter of the 28 samples was found to have mercury at varying amounts. No arsenic was detected.

The samples contained in varying amounts naphthalene, DDT, dichlorobenzene, thymol, and lindane. Although the pesticides were found at lower concentrations than mercury, Mr. Palmer recommended handling the objects with gloves.

Mr. Palmer described a second case study of the museum environment at San Francisco State University, looking specifically for mercury in drawers and on the cultural items, which resulted in finding widespread mercury contamination. Exposure testing performed by a certified industrial hygienist found widespread mercury contamination in the floor cracks in the lab and some arsenic contamination. Airborne mercury testing found appreciable levels of mercury present in the air in the lab. Dermal exposure studies showed that microgram quantities of mercury and arsenic could be transferred by handling these objects.

Mr. Palmer is investigating other case studies. Sampling can be nondestructive and spot testing utilizing swabs and wipes can provide viable results. He stressed the need for testing personnel to be properly trained and to follow the procedures of quality assurance and control in order to get reliable results. In addition, the instrumentation required to do the testing is complicated and expensive. A large consideration will be who pays for the analyses. Mr. Palmer expressed appreciation for the opportunity to work with Mr. Hostler and Ms. Davis, stressing the importance of interdisciplinary cooperation.

Review Committee Discussion: In response to a question from Mr. O'Shea, Mr. Palmer explained that contamination levels varied greatly on individual artifacts. This could be attributed to the application methods. Mr. O'Shea stated that although the methods described by Mr. Palmer are not simple, they are also not exotic. Any major university would be able to perform these analyses. The technology exists for the development of a broad-based system for systematically testing cultural items. Mr. Robbins emphasized the importance of tribal consultation. Mr. Minthorn expressed appreciation for the presentations on the conference and models for dealing with contamination. He urged Mr. Hostler to consider pursuing dispute proceedings if necessary in their dealings with the Peabody Museum of Anthropology and Ethnography. Ms. Worl pointed out that many tribes, including her own, are still trying to develop a way to deal with contaminated ceremonial items.

### **California State Parks**

Ms. Paulette Hennum, CDPR, Sacramento, offered her assistance to Ms. Worl and the subcommittee on the contamination issue. CDPR, with the help of San Francisco State University, applied for a NAGPRA grant which was funded at \$45,000 to hold six workshops throughout the State of California. The workshops will focus on education about the contamination issue and will encourage museum and tribal people to work together. Ms. Yolanda Chavez will work as an instructor and coordinator, along with Mr. Niccolo Caldararo. A simple safety kit has been developed and will be featured at the conferences. Each kit will contain a protective smock, nitrile gloves, dusk masks, and laminated handling instructions.

Mr. Bruce Stiny, CDPR, Sacramento, explained contamination testing that was conducted at the California State Indian Museum. At a conference in May 2000 at the Robinson Rancheria, Mr. Niccolo Caldararo spoke about methods of minimizing exposure to pesticides and chemicals in museum environments. To do this, Mr. Caldararo recommended limiting access to collection storage areas where concentrations of chemicals might be the highest. The California State Indian Museum has a unique problem because the storage facility is located in the exhibit areas of the museum. Due to this

unusual and potentially hazardous arrangement, a decision was made to test the air quality in the museum.

The testing will be done in two phases. First, the air was tested to determine the potential for inhalation of hazardous vapors or dust by visitors or staff. This testing was completed during normal operating conditions on a regular business day. Tests were done for 20 biopersistent pesticides and none was found. Tests for over 50 volatile organic compounds indicated that almost none was present. Amounts present were well below any recognized threshold. No arsenic was found, and very low levels of mercury were found, well below established limits. The second phase of testing will monitor an employee's completing typical housekeeping for objects inside display cases. Mr. Stiny hopes to present the second-phase findings at the next review committee meeting.

Review Committee Discussion: In response to a question by Mr. O'Shea, Mr. Stiny explained that testing priorities were developed in response to funding considerations. The priorities are 1) testing air quality due to the large number of visitors and staff in the facility, 2) testing effects on people who handle the objects, and 3) testing cultural items individually as funding allows. Ms. Hennum raised the possibility of approaching chemical companies for funding. She also pointed out that the Hopi Tribe is continuing repatriation efforts but is not taking physical possession of the cultural items. This is an option for Indian tribes to consider that does not halt the repatriation process. Ms. Hennum thanked the National NAGPRA staff for their assistance in the grant process.

Ms. Metcalf asked if CDPR would be willing to share information from the education program. Ms. Hennum stated that the information would be posted on CDPR's Website and presented Ms. Metcalf with a safety kit. Mr. Bradley expressed appreciation for the aggressive and inclusive way that CDPR and San Francisco State University have addressed this issue. Mr. Hart agreed with Ms. Hennum's suggestion to have museums continue to curate contaminated cultural items after repatriation. Mr. Hart also suggested that in some cases it is appropriate to make duplicate ceremonial items and gave an example relating to the Cheyenne Tribe. Mr. Bradley added that once repatriation is complete, Indian tribes determine the disposition of the items, and he gave examples of long-term curation agreements between Indian tribes and the Robert S. Peabody Museum, Andover, MA. Mr. O'Shea explained that the contamination issue is of primary concern for organic artifacts -- artifacts made of wood, hide or fabric -- that were likely to break down or be attacked by insects. Archeological collections of stone tools and pottery were rarely treated with pesticides.

### **Discussion of Forbearance Institutions - Peabody Museum of Archaeology and Ethnology**

Ms. Barbara Isaac summarized the museum's forbearance compliance completion efforts. The museum has collections from 45 of the 50 States. The museum's inventory contained the following information: 3,142 culturally affiliated Native American human remains by State, 6,729 culturally unidentifiable human remains by State, 69 non-Native human remains by State, 187 Native American human remains with no State, 13 non-Native North American human remains with no State, and 411 human remains under the control of or transferred to other institutions or agencies. This accounts for a total of 10,551. In addition, 313 human remains were unknown as to country, 61 came from other countries, 43 were primates, 4 were other fauna, 230 were casts, 7 were objects, and 997 were numbers that were lost through reassociation. In addition, the museum reports 4,378 culturally affiliated associated funerary objects and 11,367 culturally unidentifiable associated funerary objects.

In the last 6 months, the museum contacted 250 Indian tribes through 2,191 consultative interactions by facsimile, telephone, U.S. Mail, and e-mail. The total number of consultative interactions during the forbearance period was 5,027. In the last six months, repatriations have occurred to the Kumeyaay, Little Traverse Bay Bands of Odawa Indians of Michigan, Karuk Tribe of California, and Big Valley Band of Pomo Indians of the Big Valley Rancheria. Ms. Isaac explained that the museum has now fulfilled its forbearance assignment and should be formally released from forbearance status. Any further review is the responsibility of the National NAGPRA program. The formal release is important due to the ineligibility of forbearance institutions for NAGPRA grants.

Review Committee Discussion: Mr. Minthorn commended Ms. Isaac on her work with the museum and her efforts to fulfill the museum's forbearance requirements. In response to a question by Mr. Minthorn, Ms. Patricia Capone explained that collections were transferred to return outstanding loans or to consolidate collections. If one institution had a significant portion of a collection and another institution had a minor portion, the minor portion would be combined with the major portion of the collection in order to facilitate consultation and repatriation. Collections that are under other control are those collections that are in the possession of the museum but under the control of a Federal agency. The museum works with those agencies on a case-by-case basis. Ms. Isaac added that the NAGPRA staff at the museum would now inventory the remainder of the museum's collections across the world.

In response to a question by Mr. Hart, Ms. Isaac clarified that culturally affiliated associated funerary objects were connected to culturally affiliated Native American human remains and unassociated funerary objects have been culturally affiliated but not associated with any human remains. Ms. Capone added that NAGPRA definitions state that if an object is intended solely for burial purposes it is considered an associated funerary object even if there are no human remains. Mr. Robbins explained that in the case of associated funerary objects, the objects and the human remains could be at different NAGPRA-bound institutions. In response to a question by Mr. O'Shea, Mr. Robbins agreed with Ms. Isaac that the Peabody Museum of Archaeology and Ethnology has satisfied their forbearance agreement. Mr. Hart described a repatriation ceremony during which Ms. Isaac and Mr. Tom Killion, National Museum of Natural History, Smithsonian Institution, helped reunite two parts of an individual that had been separated for over 130 years and a dramatic demonstration of power by a spiritual leader present at the ceremony.

### **Discussion of Implementation of NAGPRA within NPS**

Mr. Bradley expressed concern that the review committee was currently on record as being in favor of moving the administration of NAGPRA from NPS to another office. He asked the individual committee members to go on record with their current positions on the implementation of NAGPRA within NPS and to identify priority issues for the National NAGPRA staff.

Mr. Bradley explained that he felt the best way to implement NAGPRA would be to work with NPS and identified developing regulations on the disposition of culturally unidentifiable remains as the highest priority. Mr. O'Shea agreed with Mr. Bradley. While Ms. Metcalf agreed with most of Mr. Bradley's points, she raised the conflict of interest issue and added that hiring additional staff was a priority along with the regulations. Mr. Minthorn stated that the committee members are hardworking and productive and have the same objective, to help with repatriation efforts of Indian tribes and museums. He agreed that the development of regulations needs to remain the review committee's priority. The joint responsibility of the review committee and NPS is to implement NAGPRA. Mr.

Minthorn stated that the positions set forth at the Juneau meeting and the Senate oversight hearings with Senator Inouye were clear.

Mr. Hart explained that he was satisfied with the changes implemented by Ms. Ann Shields from NPS' proposed choices. Mr. Hart felt that regulations on culturally unidentifiable Native American human remains should be a priority, although he added that Indian tribes could move ahead with repatriations in the meantime. Ms. Worl expressed concern about the conflict of interest in terms of NPS's having the responsibility to implement NAGPRA and at the same time being subject to NAGPRA. She explained that the conflict of interest was and still remains widely perceived in the Native community. Ms. Worl expressed additional concern about the unacceptable record of NPS' implementing NAGPRA, resulting in a lack of progress in some areas like regulations. In addition, she was concerned about NPS's budget and appropriations. Ms. Worl stated that attempts to deal with contamination of cultural items would require a significant amount of funds. Mr. Bailey agreed with Ms. Worl's comments, but explained that he supported NAGPRA's staying with NPS because any significant change could disrupt the process.

Mr. Bradley suggested that the review committee place the following statement on the record: "Although the review committee still has concerns over issues of conflict of interest, implementation of the statute, and funding priorities, the committee expresses its willingness to continue to work with the National Park Service for the implementation of NAGPRA." The review committee agreed with the statement, although Ms. Worl expressed hesitation. Ms. Worl explained that while she remains willing to work with NPS, she would continue to seek the removal of NAGPRA administration from NPS.

In response to a question by Mr. Robbins, Mr. Bradley explained that as staff is hired one priority would be developing regulations, which does not change the priority to concentrate on the notice backlog. In response to Ms. Worl's comments, Mr. Robbins explained that NPS has sought and received \$195,000 emergency funding in FY1999 and a \$400,000 base funding increase effective in FY2001

### **Corrections or Amendments of Juneau Meeting Minutes**

Mr. Robbins explained that at the Nashville meeting the review committee expressed concern that Mr. Martin Sullivan signed the Juneau minutes prior to full review committee discussion or approval. After discussion at the Nashville meeting, the review committee decided to let the Juneau minutes stand as signed, with the option to amend the minutes at the Kelseyville meeting if necessary. Although no technical changes to the Juneau were requested, the review committee members again expressed concern with the process and requested that minutes be considered draft until formally reviewed and adopted by committee members at a subsequent meeting. On a related note, Mr. Hart stressed the importance of conducting proper closing ceremonies, which was not done at the Juneau meeting due to time constraints.

### **Discussion of Nashville Minutes**

Mr. Bradley had a technical correction on page 16, second paragraph, last sentence: Mr. Duane Alire, Superintendent, Pecos National Historical Park. The review committee unanimously agreed to approve the minutes of the Nashville meeting.



Mr. Bradley explained a request from an audience member to have draft minutes available to the public prior to the meeting. After discussion, review committee members agreed that meeting minutes would be approved before being available to the public. Mr. Robbins added that after the review committee approves meeting minutes, an electronic version is available to the public on the National NAGPRA Website.

Mr. Robbins summarized the review committee's requests from the Nashville meeting and the progress made to date by the National NAGPRA program --

- Page 4: Determine an estimated total universe of Federal agencies. Work is continuing on the request for the total number of Federal agencies.
- Page 4: Determine an estimated total universe of museums. The National NAGPRA program provided the review committee members with the index of museums found in the annual handbook of the American Association of Museums. The index of 7,934 museums is divided into approximately 12 self-identified categories, within which museums are listed only once. Mr. O'Shea suggested comparing the categories that were most likely to be relevant to NAGPRA with a list of museums that have submitted summaries and inventories to try to identify noncompliant institutions.
- Page 5: Provide an organizational chart of DOI and NPS. The chart was included in the review committee binder. Mr. Bradley asked for an updated chart with individual names.
- Page 6: Request for background information on the dispute between Hopi Tribe and Chaco Culture National Historical Park for Ms. Worl and Mr. Bailey. This information was sent following the Nashville meeting.
- Page 6: Determine whether Chaco Culture National Historical Park was proceeding with repatriation efforts. Mr. Robbins reported that the repatriation was on hold pending the results of the National Park System Advisory Board subcommittee review.
- Page 7: Request for a copy of the National NAGPRA budget. The budget was provided at the Nashville meeting and an updated version was included in the review committee binder.
- Page 7: Request for a copy of the civil penalty regulations. Ms. Mattix agreed that although the review committee members could not see the final civil penalties rule, which is now in process, a copy of the interim civil penalties regulations could be provided. Ms. Worl again asked the National NAGPRA program for clarification of the situation involving the Raven Rattle and the Taylor Museum. Ms. Worl explained that she has raised this issue at previous meetings and is concerned about possible statute of limitations considerations.
- Page 16: Request for development of possible procedures for technical changes to past recommendations of the review committee. Mr. Bradley clarified this request as stemming from a second presentation by Carlsbad Caverns National Park adding human remains to a previous culturally unidentifiable human remains repatriation request. After discussion, the review committee agreed that technical adjustments to quantities and types of cultural items could be accomplished through a corrected Federal Register notice. Changes in Native American groups consulted or proposed for cultural affiliation would require further consideration by the review committee.
- Page 18: Check on the status of the letter from the Chickasaw Nation. This item has not been completed. Ms. Mattix requested to see the letter and obtain more background information.
- Page 20: Request to track all Indian tribes that have appeared before the review committee, as well as the major issues brought before the committee. This item has not been completed. Mr. Robbins explained that the National NAGPRA office considers this an important topic, which will be addressed as soon as possible.

## **Meeting Protocol Clarification**

Mr. Robbins explained that the meeting protocol is available on the NAGPRA Website and suggested that the review committee incorporate the meeting minutes procedure as part of the meeting protocol. Committee members agreed. Mr. Robbins explained that the National NAGPRA office had received several questions concerning the meeting protocol. One question focuses on the certification requirement listed in item (3) of the meeting protocol. Other questions arose in relation to the requirement for submission of a summary for proposed presentations. Mr. O'Shea explained that these requirements were the result of a presentation at the Santa Fe meeting wherein a dispute hearing informally developed with only one party present. In order to prevent that situation, the review committee developed item (3) in the meeting protocol. Mr. Bradley suggested wording that would give priority to representatives of Indian tribes, Native Hawaiian organizations, Federal agencies, or museums. Mr. Robbins suggested that the dispute resolution protocol could prohibit discussion during the public comment sessions of disputes that have been accepted by the review committee. Mr. O'Shea suggested distinguishing between formal presentations and public comment. Mr. Robbins added that the National NAGPRA office could continue to make scheduling decisions based on time requirements but added that the review committee would need to have a more formal process to consider presentation content. Mr. Hart stressed the importance of allowing the public an opportunity to comment, regardless of their affiliation with Indian tribes or museums. Ms. Worl suggested formalizing the review committee's practice to meet at geographically diverse locations per item (1). Mr. Robbins added that the National NAGPRA program would find it helpful if both the meeting location and dates were decided two meetings minimum in advance. Mr. Minthorn agreed to work with Mr. Robbins and Ms. Mattix in revising the meeting protocol, including a formal review by the general law division of the DOI Solicitor's office as requested by Ms. Mattix.

## **Dispute Resolution Procedures**

Mr. Bradley explained that he drafted some language for amendment of the dispute resolution procedures. The first amendment would be item (6)(C): "Once the committee Chair and the Designated Federal Official have determined that the committee will hear a dispute, the parties will only address the committee and its members through the process outlined in these procedures." Mr. Robbins suggested that the same language should appear in the meeting protocol. The committee members agreed unanimously to incorporate the proposed language in the dispute resolution procedures.

The committee members agreed unanimously to incorporate additional language proposed by the National NAGPRA staff for clarification of the responsibilities of disputing parties, as follows--

- (3.9) If the committee Chair and the Designated Federal Official decide jointly that additional information is needed to determine whether the dispute is appropriate for the committee to consider, the Designated Federal Official will send a letter to the involved parties.
  - (a) Failure on the part of the party that initiated the dispute to respond to this request will indicate that the proposed dispute is no longer active.
    - (1) The Designated Federal Official will inform the review committee Chair of the status of the proposed dispute, send a letter acknowledging the proposed dispute status to the involved parties, and place the proposed dispute on inactive status.
    - (2) At such time that the Designated Federal Official receives a letter providing the additional information and requesting that the proposed dispute be re-activated, the

Designated Federal Official and review committee Chair will consult and jointly decide whether the proposed dispute is appropriate for consideration by the review committee.

- (4.9) The Designated Federal Official will send formal notification to the involved parties using registered/return receipt mail service. Statements from each party involved must be sent to the Designated Federal Official no later than 90 days following receipt of formal notification.
- (a) If the involved parties need more than 90 days to respond, a request must be received by the Designated Federal Official no later than 15 days before the end of the 90-day period.
  - (b) The request should indicate the amount of time needed to respond, which should not exceed 90 days, and should indicate circumstances surrounding the extension.
  - (c) The Designated Federal Official will inform the review committee Chair of the extension, and send a letter to the involved parties acknowledging the extension.
  - (d) If the involved parties require over 90 days to prepare statements, the proposed dispute will be placed on inactive status until receipt of the statements.

The National NAGPRA program will update the dispute resolution procedures to incorporate the review committee's changes. The Chair of the review committee will sign the updated dispute resolution procedures, which will then be posted on the Website.

### **Upcoming Meetings**

The Fall 2001 review committee meeting will be held November 17, 18, and 19, 2001, in Cambridge, MA, at the invitation of the Peabody Museum of Archaeology and Ethnology, Harvard University.

Ms. Barbara Isaac, Peabody Museum of Archaeology and Ethnology, Harvard University, reiterated the invitation Ms. Isaac explained that the museum plans to erect a totem pole presently being carved by the Tlingit to replace the totem pole that the museum is returning to the Tlingit in June 2001. The totem raising ceremony is tentatively scheduled during the November meeting, and all attending the meeting will be invited. Ms. Isaac explained that she will retire from her position at the museum at the end of June, but hopes to assist in the preparation for and attend the November meeting.

Ms. Patricia Capone, Peabody Museum of Archaeology and Ethnology, Harvard University, seconded the invitation by Ms. Isaac. Ms. Capone emphasized the opportunity for Indian tribes to schedule repatriation visits to the museum and attend the review committee meeting.

Mr. Bailey extended an invitation for the review committee to meet in Spring 2002 at the Gilcrease Museum or the University of Tulsa, Tulsa, OK. He offered to arrange location and dates in coordination with the National NAGPRA program. After discussion, the review committee agreed to meet in Spring 2002 in Tulsa, OK. The review committee members tentatively discussed holding the Fall 2002 meeting in Washington, DC.

### **Nomination Process**

Mr. Hart's term on the review committee expires in September 2001. Mr. Robbins explained that he would speak with the NPS policy office to determine the possibility of a subsequent appointment. Mr. Hart expressed his willingness to serve an additional term of three years. Mr. O'Shea clarified that Mr. Hart will be considered a member of the review committee until a successor or Mr. Hart is appointed.

## **Public Comment**

Ms. Norma Turner Beal (phonetic), Dumna Tribe, discussed her heritage including the tragic circumstances of some of her ancestors' deaths, resulting in the removal of cultural items from the area. She described difficulty as a nonfederally recognized tribe to return these cultural items to their rightful place. She explained some of the problems faced by federally recognized tribes from gambling casinos and alcohol that have resulted in culture loss. She described efforts by her people to regain their culture and implement traditional ceremonies.

Ms. Patricia Murphy Bratlin (phonetic), Dumna and Kechayi Tribes, described her background and expressed her opinion that the discussion of ancestral human remains is offensive. She also found Assistant Secretary Kevin Gover's apologies on behalf of the BIA offensive and stated that a Native American should not have to apologize for the Federal government's actions. The Dumna Tribe was one of the tribes forced to help build Fort Miller. The ancestral remains under the fort are Dumna and should be returned. She explained that her family went through contamination testing and removal in their home, which was very expensive. Unfortunately, some family members still have related health problems.

Mr. Jim Brown, Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, welcomed the review committee and explained that Konocti means "a spirit lady" and is the name of the mountain behind the resort where the review committee meeting convened. Six Indian tribes remain in Lake County, with a combined land holding of only 1,400 acres. There is a high density of archeological sites in the county. The Indian tribes in the area prospered as fishermen and gatherers and were sovereign long before the U.S. government came to the area. Area Indian tribes traded with each other. In 1849 Indian men were sold to mining camps for hard labor. During the signing of the 1850 treaties, Indian children were sold at the courthouse into slavery. He described the history of his tribe and the various names that they have been forced to use under rules of Federal recognition. Mr. Brown explained that he worked for the Native American Education Center in Lakeport, CA, and that part of his work was educating the school system about the atrocity of requiring Indian students to construct models of missions. He compared this to requiring Jewish children to construct models of Nazi concentration camps. Mr. Brown described difficulties in NAGPRA implementation that he has encountered, including not being allowed access to cultural items at University of California-Davis and a reluctance on the part of some tribal leaders to get involved in repatriation issues. He described a loss of tribal culture experienced by his tribe. Congress took 22 years to sufficiently fund the Indian Self-Determination Act, and Mr. Brown sees a strong correlation between that act and NAGPRA. Indian tribes do not have sufficient resources to effectively implement NAGPRA. He thanked the review committee for listening and urged their understanding of the problems of California Indian tribes. Mr. Brown shared items of tribal and family history with the review committee and other meeting participants.

Mr. Gregg Castro, council tribal chair for the Salinan Nation, gave honor and respect to the Pomo people. He emphasized the value of hearing about the contamination issue and explained that he learned about the issue at a Society for California Archeology conference in April. The contamination issue is large and complicated, and financially beyond the scope of any tribal organization or institution. Therefore, the Federal government will have to be responsible. He suggested presenting the problem as a human issue rather than just a Native issue, because many people will be affected. In addition, central or regional laboratories could be utilized to test and attempt to decontaminate the most important cultural items, with a central repository controlled by Native people used to temporarily hold

other items until they can be decontaminated. Mr. Castro expressed concern about a former request for repatriation for which the review committee recommended return of culturally unidentifiable cultural items held by Fort Hunter-Liggett to the Salinan Nation. He explained that once the Federal agency discovered that the Salinan Nation was not federally recognized, the process stopped. He stated that Ms. Janet Eidsness would explain the situation in greater detail.

Ms. Claire Charlo, Confederated Salish and Kootnei Tribes, explained that since the passage of NAGPRA in 1990 many States have implemented State repatriation acts. In the last State legislative session, the Montana Repatriation Act was passed. The act is similar to NAGPRA except that it extends jurisdiction over to private lands and persons, including private individuals and corporations.

Ms. Yolanda Chavez, former NAGPRA director for the Lake Country Intertribal NAGPRA Consortium, expressed appreciation that the review committee accepted her invitation to meet in northern California. She stressed the urgent need for additional funding, both for increased levels of tribal NAGPRA implementation and to address the critical issue of contamination of cultural items. She asked what could be done to improve funding levels. Mr. Robbins suggested that individuals contact their local Congressional delegation. Ms. Metcalf described previous efforts of review committee members to lobby Congress for additional funds. Mr. Minthorn added that Senate oversight hearings might be another way to highlight this issue. Mr. Bailey urged the public to focus on the contamination issue when trying to get additional NAGPRA funding. Ms. Worl agreed with Mr. Robbins that the best course of action would be to contact Congressional representatives, and suggested that additional funding might be found outside of NAGPRA, for instance through public and private foundations. Indian tribes also need to make NAGPRA a funding priority.

Ms. Chavez suggested that cultural items be tested for cross-contamination once they are transferred to holding facilities or museums. She stressed the difficulty and importance of dealing with the contamination issue. Ethnographic objects and artifacts are sacred to people who have waited so long to get them back. The knowledge that cultural items are contaminated with something that is a health risk cuts to the very heart of NAGPRA as tribal communities try to determine how to deal with contaminated cultural items. Ms. Chavez expressed her willingness to serve on the review committee's subcommittee on contamination of cultural items. She thanked the review committee for their efforts and asked Drs. Bradley and O'Shea, as directors of museums, to report on the work being done at their museums to deal with pesticides.

Ms. Carmen Christy, Yokayo Tribe, stated that the U.S. government has a long history of injustice against Indian people and the people of California. Her ancestors purchased 160 acres in the late 1800s and then gave the Federal government one acre for a school. The Yokayo Tribe signed the 18 unratified treaties with the three commissioners from the U.S. government, which should have been honored even though they were not ratified. Ms. Christy explained that after President Nixon signed the 1975 Indian Self Determination Act, the BIA clerk who transferred the list of tribes left the Yokayo Tribe off the list. The Yokayo Tribe discovered this in 1988 and is required to re-petition for acknowledgement. She thanked the review committee for attempting to right the wrongs of the U.S. government of over 100 years ago. As long as the U.S. government, universities, and museums hold their cultural items, Indians in Pomo country will live in constant turmoil and unrest. Ms. Christy recommended that any Pomo items that cannot be returned need to be burned in the Pomo tradition.

Ms. Vicki Christy, Fallon Paiute-Shoshone Tribe, expressed appreciation for the review committee's scheduling the dispute between the Fallon Paiute-Shoshone Tribe and the BLM for the November 2001 review committee meeting. She explained that the tribe expects the BLM not to participate in the discussions but stressed the importance of the review committee's making a determination based on the evidence due to the time, resources, and energy expended by the Fallon Paiute-Shoshone Tribe in providing the documentation.

Mr. Lyndon Dejarlais, integrated resource coordinator, Turtle Mountain Band of Chippewa Indians, read a statement prepared on behalf of Mr. Kade Ferris, archeologist and historic preservation officer, Turtle Mountain Band of Chippewa Indians. Mr. Ferris expressed appreciation for the opportunity to address the review committee. The Turtle Mountain Band of Chippewa Indians is a federally recognized Indian tribe located in north-central North Dakota. As a sovereign nation, the Turtle Mountain Tribe has an inherent right to protect and preserve ancestral burials and to bring home those ancestors who were desecrated or stolen. Economic constraints have prevented full participation in the NAGPRA process, which has led to a general failure in the NAGPRA process. To correct this failure, more equitable distribution of funding under the NAGPRA grants program is needed to include impoverished Indian tribes in the process. Since 1995, no North Dakota Indian tribe has received funding under NAGPRA and only two grants were given to South Dakota Indian tribes, an amount slightly over \$51,000 divided among seven Lakota and Dakota Indian tribes. The Turtle Mountain Tribe has submitted three collection review grant proposals during this period and has been turned down each time. The funding distribution of NAGPRA grants needs to be examined for possible alternatives that would lead to greater inclusion of Indian tribes. Formulaic and permanent funding for Indian tribes is the best and only answer to eliminate funding inequities. During a Senate oversight hearing in April 2000, funding levels of over \$10 million were identified as a target to create national equity for Indian tribes' participating in NAGPRA. In fiscal year 2000, 51 percent of all museum and university grants were funded, accounting for \$622,820. This money could be used to benefit Indian tribes. Until funding is received, the Turtle Mountain Tribe's need to find and return ancestors and sacred objects will remain a dream. The review committee and NPS have the power to solve this problem.

Ms. Janet Eidsness explained that she has been a cultural resource consultant for 25 years. As a private and agency cultural resource person in California, she has encouraged people to look to Federal lands as a possible place for repatriation and reburial because of the protection afforded to Federal lands. She is familiar with reburials of private collections from Federal lands on U.S. Forest Service and NPS lands in the State of California. Ms. Eidsness pointed out the long-term responsibility under NAGPRA for managing human remains in either reburial sites or archeological sites with the original burials in place. California cemeteries are dedicated so that the land title and use is specifically registered as such. Ms. Eidsness wondered if this process could be used on Federal lands to potentially remove such lands from public use. She asked if NAGPRA grant money could be used for security devices for reburial, such as the remote sensing devices used by Lava Beds National Monument. Local tribes could be involved in these grant awards in stewardship programs where volunteers work on site preservation and security. Ms. Eidsness expressed appreciation for the hard work of the review committee and the National NAGPRA staff. She offered to assist in any possible way with NAGPRA implementation. She explained that California does not have a repatriation law but is looking at draft legislation. The California State law discussed earlier at the meeting is a law that deals with the rightful need to protect Native American remains discovered during construction or archeological work on private and State lands. Assembly bill 978 is a proposal for repatriating Native American human remains and other cultural items to culturally affiliated Indian tribes, possibly including nonfederally recognized groups.

Following Mr. Castro's presentation, Ms. Eidsness explained that the recommendation was made for return of culturally unidentifiable cultural items from Fort Hunter-Liggett to the Salinan Nation. Once the agency determined that the Salinan Nation was not federally recognized, the process stopped. Mr. Minthorn asked Mr. Robbins to follow up with Ms. Eidsness and Mr. Castro on this issue.

Mr. Brian Ewart, independent, explained that he was present as a member of the public concerned with the important issues involved with NAGPRA. Although far from perfect, NAGPRA is a reasonable attempt to seek balance between legitimate interests. The public has a stake in the fair implementation of NAGPRA so that Indian tribes receive the justice and respect that they are due. He commended the committee for giving Indian peoples' concerns thoughtful consideration. A perspective that has not been as evident at this meeting is the public's stake in ensuring preservation of the integrity of the nation's museums, educational institutions, and other sources of knowledge. While museum and religious experiences are different, they are not mutually exclusive. An object may have significant spiritual value to one individual and significant interpretative value to another. NAGPRA strives to seek the balance. Mr. Ewart expressed concern about the committee's balance in resolving repatriation disputes. While the temptation may be strong to stretch NAGPRA beyond the letter of the law, an unintended consequence may be to undermine the committee's legitimacy and ability to help. If an agency attempts to comply with NAGPRA in good faith and submits a detailed report with a finding of no cultural affiliation, the committee needs to uphold the finding and not grant repatriation. The review committee needs agency compliance and public support. NAGPRA cannot solve all tribal concerns, but the review committee can do more to help Indian tribes if they seek balance and are careful not to alienate Federal agencies and the public.

Mr. Fred Frampton, Intermountain Region NAGPRA coordinator, Humboldt-Toiyabe National Forest, explained that the delay in completing the U.S. Forest Service's national inventory was due in large part to last year's disastrous fire season. He reported that Mr. Frank Wozniak, NAGPRA coordinator, Southwestern Region, U.S. Forest Service, said that the inventory is forthcoming and begs the committee's apologies. Mr. Frampton reported that the Intermountain Region of the U.S. Forest Service -- southern Idaho, Utah, Nevada, parts of eastern California, and a small part of Wyoming -- worked diligently to meet the requirements of NAGPRA. Of the 17 sets of human remains in the region, 8 have been returned, 7 have a signed agreement for return, and the other 2 have been included in a notice published in the Federal Register. He is hopeful that all will have been returned by the end of Summer 2001. The Intermountain Region is committed to returning human remains as close as possible to the original burial site, as was the case with seven of the returned human remains. In response to a question from Mr. O'Shea, Mr. Frampton indicated that the Humboldt-Toiyabe National Forest consisted of 6.5 million acres and reported 5 sets of human remains. He agreed that was a low number and explained that they were attempting to determine whether there were any remains in other museums. In response to a question by Mr. Minthorn, Mr. Frampton explained that he did not have any information specifically regarding Cleveland National Forest or Sierra National Forest.

Mr. Lalo Franco, Santa Rosa Rancheria, explained that a few years ago the Rancheria reburied Native American human remains that were at Fresno State University on the Santa Rosa Rancheria. He expressed his appreciation for the way that Indian people work together for the common good of reburying remains. The coalition is extending to include tribes in the great San Joaquin Valley. He explained that an important spiritual movement is happening in the valley. Indian people own their past and the cultural items of their ancestors, not other people. Mr. Franco explained that they were warned that negative forces would work constantly to impede the process but that they cannot stop the work. With the help of the review committee, hopefully the ancestors can be returned.

Mr. Franco asked what the deadlines were for inventories and what he could do to get more information on institutions holding inventories, including foreign holdings. Mr. Franco thanked the review committee for their leadership and courage. Mr. Robbins explained that institutions had no new deadlines for completion of inventories. Some institutions were granted extensions to the initial deadline and six institutions went into forbearance as discussed earlier at the meeting. Mr. Robbins added that there was currently no list of museums that would be subject to NAGPRA, although the review committee has asked for this information and the National NAGPRA office has looked at different ways of compiling the list. Mr. Robbins stated that the National NAGPRA office currently works only with the materials that are prepared and sent by museums and Federal agencies required by NAGPRA. He added that museums and Federal agencies were required to submit inventories in both a paper and electronic format. Once the National NAGPRA office completes a review of all submittals according to some standard and institutions that have not met the standard have been contacted, electronic versions of the information can be made available to the public. Mr. O'Shea stressed the importance of public access to this information, especially to facilitate repatriation of culturally unidentifiable human remains. Mr. Franco added that he hoped that the testing process for contamination does not delay the repatriation process. He explained that efforts to have local city and county governments set aside land for reburials resulted in reopening the old Santa Rosa Rancheria cemetery for reburials. He expressed concern about replication of cultural items for profit or study. Mr. Robbins also explained that NAGPRA does not address international repatriation.

Ms. Martha Graham, American Museum of Natural History and chair of the repatriation committee for the Society for American Archeology (SAA), expressed appreciation on behalf of SAA for the review committee's efforts on the implementation of NAGPRA. SAA continues to assert that NAGPRA seeks a balance of legitimate interests of Indian tribes, science, and the public. The review committee helps to maintain that balance and offers a forum for exploring common ground and models for NAGPRA implementation.

Ms. Graham asked about an earlier comment by Mr. Robbins regarding the possible move of the NAGPRA program to another office. Mr. Robbins stated that at the Juneau meeting the review committee passed a resolution to remove National NAGPRA responsibilities from NPS. Ms. Graham urged the committee members to consider the disruption that could occur due to reorganization when developing recommendations regarding the administration of NAGPRA.

Mr. Richard Harjo, chairman of the Nevada State Indian Commission and chief of staff for Nevada State Senator Randolph Townsend, explained that outside of his various official positions he was addressing the review committee on a personal level. During the last State legislative session, the Indian Commission along with State Senator Townsend developed a repatriation bill. The bill was not successful, but plans are underway to introduce the legislation at a future session. Mr. Harjo reported that the Nevada State Museum, as well as other Federal agencies, is waiting for regulations before dealing with culturally unidentifiable human remains in their collections. He expressed concern that the present rate of dealing with culturally unidentifiable human remains is much too slow. He thanked the review committee and the National NAGPRA staff for their work in implementing NAGPRA and in providing technical assistance. He explained that many museum people at the hearing on the proposed legislation were upset at having to pay for contamination remediation in addition to the repatriation expenses. Mr. Bradley encouraged Mr. Harjo to pursue the State repatriation legislation and expressed hope that review committee actions regarding culturally unidentifiable human remains would help form a process to deal with this issue in a more expedient manner.



Cleone Hawkinson, president, Friend's of America's Past, explained that Friend's of America's Past is a nonprofit organization that promotes the rights of scientists and the public to learn about America's prehistory. The effectiveness of the review committee depends on how well the committee carries out its responsibility to provide consistent, balanced, and lawful recommendations on issues brought before the review committee. The review committee must hold the U.S. Constitution above all other interests. Native American religions are not entitled to special exemption from constitutional constraints and preference cannot be given to one group's religious beliefs over other views. Indian tribes that present sacred evidence to support a claim must decide what is more important, religious privacy or establishing a claim in accordance with the law. The Constitution limits the use of oral tradition and religious beliefs, which means that while the committee can compare religious beliefs to find relationships for purposes of affiliation, the actual use of religious beliefs cannot be accepted as proof of a claim.

Congress provided carefully crafted tribal affiliation requirements in NAGPRA, but did not provide for coalition claims. While limited exceptions can be made in specific circumstances for coalition claims, coalitions have become a convenient catch-all to resolve claims that are not supported by the evidence clearly required by NAGPRA. The review committee should carefully examine any coalition making a claim and the evidence that a coalition might present. Loosely formed or overly broad coalitions could become the focus of legal action, which could undermine the committee's credibility in cases supported by the committee. When multiple tribes are making a competing claim, NAGPRA requires that the agency determine which tribe has the closest relationship for the claim. In the Kennewick case, former Secretary Babbitt chose to ignore this requirement as well as the requirement that only federally recognized tribes may make claims. Federal agencies and the review committee do not have this discretion. Indian tribes must meet the requirements of the statute and the review committee must base its recommendations on the quality of the evidence presented.

Congress spent considerable effort to balance the interests of Indian tribes, scientists, and museums, while also recognizing the public interest. Congress rejected arguments of Native Americans who claimed that they have a human right to control all prehistoric objects and sites that they consider culturally important. Likewise, Congress rejected the claims of scientists and museums that wanted to retain anything that they consider of scientific interest. To ensure that this statute would not be misconstrued as authorizing every claim, Congress adopted language to limit the statute and created the review committee to oversee its implementation, envisioning a committee that would offer fair and reasoned recommendations to assist agencies in making decisions. In the 10 years since NAGPRA was passed, the committee has developed few objective standards to apply to the various lines of evidence needed to reconcile or weigh conflicting evidence. Notably absent are important standards on the need to measure and consistently apply the phrase "preponderance of the evidence." One way for the committee to overcome being viewed as a one-interest lobby is to acknowledge the benefits of scientific study and the public's interest in America's prehistory. The committee should actively recommend scientific study in cases of uncertainty, especially those from the ancient past. It is time for the committee to bridge the growing chasm between tribal views, and the scientific and public interest in the past. The committee must uphold the Constitution, create meaningful standards, and apply them fairly using common sense. The committee's credibility and the legitimacy of its work are at stake.

Mr. Richard Hitchcock, Phoebe A. Hearst Museum of Anthropology, University of California-Berkeley, introduced the staff members of the museum present at the meeting: Mr. Robert Price, vice chancellor of research; Ms. Cindy Clearwater, deputy director of the museum; Ms. Ellen Auriti, office

of the president; Mr. Otis Parrish, cultural attaché; Ms. Victoria Bradshaw, NAGPRA collections manager; Ms. Kathleen Hull, senior museum scientist; Ms. Larri Fredericks, senior museum scientist; and Ms. Deb Porter, database manager.

Ms. Barbara Isaac, Peabody Museum of Archaeology and Ethnology, Harvard University, responded to comments by Mr. David Hostler. Ms. Isaac explained that the museum looks forward to working with Mr. Hostler and the Hoopa Valley Tribe and that this situation is nowhere near a dispute as consultations are just beginning. Ms. Isaac explained some testing conducted by the museum in 1997 with the Hopi Tribe, where some contamination was found. She stressed the importance of testing and asked if the results of the testing of Hoopa Valley Tribe's items with Mr. Hostler and Mr. Palmer could be shared with the Peabody Museum to help track pesticide use in the museum.

Mr. Leigh Kuwanwisiwma, Hopi Tribe, emphasized the importance of dealing with the issue of pesticide contamination of cultural items. The Hopi Tribe has declared a temporary moratorium on repatriation and physical return of items to the Hopi Reservation for use. He expressed concern about the amount of time that has passed since this problem was first identified, and the continued return of heavily contaminated objects to Indian tribes. He explained that the Hopi Tribe is working with the Arizona Poison Control Center in sampling and testing objects and studying the types and levels of human contact with the objects. Mr. Kuwanwisiwma notified the National NAGPRA staff that the Hopi Tribe would like to make a formal presentation on the contamination issue at the November review committee meeting, which would include presentations by staff of the Arizona Poison Control Center. He urged proactiveness on this issue and thanked the review committee for the opportunity to make this presentation. Mr. Bradley expressed appreciation for the presentation and commended the Hopi Tribe for their work on the contamination issue. He hoped that the increased staff in the National NAGPRA program would allow for more education and outreach concerning this issue. Mr. Robbins added that work on the contamination issue is continuing by several groups.

Ms. Mandy Marine, California Department of Transportation, explained that this was an emotional topic because she was both an Indian and an archeologist. She expressed amazement that in 2001 Native Americans were still defending their dead and their right not to be unearthed and studied. As a scientist, she is fascinated with archeological sites because they are traces of her past. She explained that many Native Americans practice their traditional ways but not as a religion. In fact, some Native Americans are Catholic or Christian. She thanked the review committee for the opportunity to speak and for their great work on NAGPRA implementation. As a member of three nonfederally recognized tribes, she explained that nonfederally recognized tribes are willing to work in umbrella-type situations with federally recognized tribes in order to participate in the NAGPRA process.

Mr. Martin Martinez, tribal council member, Redwood Valley Reservation, Pomo country, explained that he buried his sister the week before the meeting and was glad that he did not have to worry about her being disturbed. Native people live in two different worlds, the traditional world and under the Constitution of the U.S. government. He explained that listening to the opinions of others does not disturb him. The review committee is doing the important work of advising the government on what to do with the remains of Native Americans. Indian tribes need to step forward and claim what is theirs. He expressed support for all Indian tribes' trying to get back their belongings. He explained that a lot of Native Americans were murdered in Covolo, a nearby prison camp. Artifacts were found and removed and need to be returned. He stated that he would sing healing songs for those who do not believe that Native Americans have the right to get back what belongs to them, because all Indian tribes have that right.

Ms. Jean McCoard, Native American Alliance of Ohio, expressed appreciation and respect for the work of the review committee in the implementation of NAGPRA. Ms. McCoard provided the committee members with a U.S. map showing which States do and do not have federally recognized tribes. She explained that 19 of the 50 states do not have federally recognized tribes, although many of these states have large Native American populations. Indian tribes from these States are disenfranchised from the NAGPRA process and have to rely on the generosity of federally recognized tribes to work with them in the NAGPRA process. Ms. McCoard asked the review committee to stress this problem in their report to Congress. Mr. Bradley gave examples of repatriations that have occurred with nonfederally recognized tribes. He stated that there would not be one straightforward solution because this is not one straightforward problem. Each area of the country has its own unique recognition issues. Ms. McCoard added that Ohio does not have a State Indian commission because the legislature has decided that no legislation will be passed unless every Indian person in Ohio agrees.

Ms. Fawn Morris, Yurok Tribe, explained that she was speaking personally. She has a heavy heart because of the ancestors that need to come home but cannot because some Indian groups are not federally recognized. She stressed the urgency of getting ancestors home and reburied.

Ms. Karen Nissen explained that she was with the California Department of Transportation but was speaking personally at the meeting. At contact, an estimated 300,000 Aboriginal people were in California. By the turn of the century the number had decreased to 20,000. The California Indian tribes need help to return the human remains that have been found. She added that the town of Kelseyville is named after one of the perpetrators of the Bloody Island Massacre, which occurred nearby.

Mr. Jim Red Moon, Dumna Tribe, explained that he was present at the meeting with elders and other people from the Dumna Tribe, direct descendants of the Dumna people and the lineal descendants of the human remains from the Mountain Lake area. On behalf of the Dumna Tribe, he requested a list of all institutions that have possession of their cultural items. Mr. Red Moon stated that a significant amount of the Dumna traditional area is within a California State park and explained that they have met with park representatives and worked with the Native American Heritage Commission. He explained that as a nonfederally recognized tribe the Dumna people have no rights under NAGPRA. Nonfederally recognized people are still Native American. He stressed the importance of returning ancestors to their traditional homelands and urged the review committee to find a process to include the participation of nonfederally recognized Indian tribes. Ms. Worl added that NAGPRA was human rights legislation. She explained that the review committee has heard many examples of States working to facilitate repatriation with nonfederally recognized Indian tribes. Ms. Worl suggested an investigation into the history of NAGPRA to determine why NAGPRA restricts repatriation to federally recognized tribes when the law was supposed to be civil rights legislation. She proposed bringing this topic to the next NAGPRA Senate oversight hearing.

Ms. Dale Ann Frye Sherman explained that, although she belongs to the Yurok and Tolowa Tribes, she is speaking personally. She asked for clarification of the staffing situation at the National NAGPRA office. Mr. Robbins explained that the staff is currently decreasing but that NPS is hiring permanent staff, which will be NPS employees instead of consultants.

### **Closing Remarks**

Ms. Metcalf and Mr. Hart thanked the hosting tribal groups, the Pomo and the Yurok, for their hospitality. Mr. Bradley expressed appreciation for the comments from the public and the public's courtesy, friendship, and straightforwardness. Ms. Worl expressed appreciation for the hosting tribal groups and stressed the importance of the public's attending these meetings to show their interest and demonstrate the significance of this work. Mr. Minthorn thanked the members of the audience for their attendance and participation and the hosting tribal groups for their hospitality. He urged continued participation in NAGPRA implementation.

The meeting adjourned at 12:00 p.m. on Saturday, June 2, 2001.

Approved:

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Mr. Armand Minthorn, Chair  
Native American Graves Protection  
and Repatriation Committee

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Date